

Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 202

## **HOUSE BILL 2352**

AN ACT

AMENDING TITLE 15, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1; RELATING TO ACCESSIBILITY TO TEXTBOOKS AND INSTRUCTIONAL MATERIALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 7, Arizona Revised Statutes, is amended  
3 by adding article 2.1, to read:

4 ARTICLE 2.1. ACCESSIBILITY TO TEXTBOOKS  
5 AND INSTRUCTIONAL MATERIALS

6 15-731. Definitions

7 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 1. "ACCESSIBLE ELECTRONIC FILE" MEANS, UNTIL A NATIONAL FILE FORMAT  
9 IS ADOPTED BY THE UNITED STATES DEPARTMENT OF EDUCATION, A DIGITAL FILE IN  
10 A MUTUALLY AGREED-ON BY THE PUBLISHER AND THE LOCAL EDUCATIONAL AGENCY  
11 ELECTRONIC FILE FORMAT THAT HAS BEEN PREPARED USING A MARKUP LANGUAGE THAT  
12 MAINTAINS THE STRUCTURAL INTEGRITY OF THE INFORMATION AND CAN BE PROCESSED  
13 BY CONVERSION SOFTWARE. IF A NATIONAL FILE FORMAT IS ADOPTED BY THE UNITED  
14 STATES DEPARTMENT OF EDUCATION, "ACCESSIBLE ELECTRONIC FILE" MEANS AN  
15 ELECTRONIC FILE CONFORMING TO THE SPECIFICATIONS OF THE NATIONAL FILE FORMAT  
16 ADOPTED BY THE UNITED STATES DEPARTMENT OF EDUCATION.

17 2. "AVAILABLE AUTHORIZED ENTITY" MEANS AN AUTHORIZED ENTITY, AS  
18 DEFINED BY 17 UNITED STATES CODE SECTION 121, THAT COMMONLY PROVIDES  
19 ALTERNATIVE FORMAT SCHOOL MATERIALS THAT ARE ACCESSIBLE BY SCHOOLS IN THIS  
20 STATE AND THAT HAS THE VENDOR'S AUTHORIZATION TO MAKE ALTERNATIVE FORMATS.

21 3. "CHILD WITH A DISABILITY" MEANS A PUPIL WHO IS SUBJECT TO AN  
22 INDIVIDUALIZED EDUCATION PLAN PURSUANT TO THE INDIVIDUALS WITH DISABILITIES  
23 EDUCATION ACT OF 1997 (20 UNITED STATES CODE SECTIONS 1400 THROUGH 1415) OR  
24 A PUPIL WITH A SECTION 504 PLAN, AND WHOSE INDIVIDUALIZED EDUCATION PLAN OR  
25 SECTION 504 PLAN REQUIRES THE USE OF INSTRUCTIONAL MATERIALS IN A SPECIALIZED  
26 FORMAT.

27 4. "INDIVIDUALIZED EDUCATION PLAN" HAS THE SAME MEANING PRESCRIBED IN  
28 20 UNITED STATES CODE SECTIONS 1401 AND 1412 AND SECTION 15-761.

29 5. "NONPRINTED INSTRUCTIONAL MATERIALS" MEANS NONPRINTED TEXTBOOKS AND  
30 RELATED CORE MATERIALS, INCLUDING THOSE THAT REQUIRE THE AVAILABILITY OF  
31 ELECTRONIC EQUIPMENT IN ORDER TO BE USED AS A LEARNING RESOURCE, THAT ARE  
32 WRITTEN AND PUBLISHED PRIMARILY FOR USE IN ELEMENTARY SCHOOL AND SECONDARY  
33 SCHOOL INSTRUCTION AND THAT ARE REQUIRED BY A STATE EDUCATIONAL AGENCY OR A  
34 LOCAL EDUCATIONAL AGENCY FOR USE BY PUPILS IN THE CLASSROOM. THESE MATERIALS  
35 SHALL BE AVAILABLE TO THE EXTENT TECHNOLOGICALLY AVAILABLE AND MAY INCLUDE  
36 SOFTWARE PROGRAMS AND INTERNET BASED MATERIALS.

37 6. "PRINTED INSTRUCTIONAL MATERIALS" MEANS TEXTBOOKS AND RELATED  
38 PRINTED CORE MATERIALS THAT ARE WRITTEN AND PUBLISHED PRIMARILY FOR USE IN  
39 ELEMENTARY SCHOOL AND SECONDARY SCHOOL INSTRUCTION AND THAT ARE REQUIRED BY  
40 A STATE EDUCATIONAL AGENCY OR A LOCAL EDUCATIONAL AGENCY FOR USE BY PUPILS  
41 IN THE CLASSROOM.

42 7. "SECTION 504 PLAN" MEANS A WRITTEN STATEMENT DEVELOPED FOR A PUPIL  
43 WITH A DISABILITY THAT INCLUDES THE PROVISION OF REGULAR OR SPECIAL EDUCATION  
44 AND RELATED AIDS AND SERVICES, INCLUDING ASSISTIVE TECHNOLOGY, THAT IS

1 DESIGNED TO MEET INDIVIDUAL EDUCATIONAL NEEDS IN ACCORDANCE WITH 34 CODE OF  
2 FEDERAL REGULATIONS PART 104.

3 8. "STRUCTURAL INTEGRITY" MEANS THE STRUCTURE OF ALL PARTS OF THE  
4 PRINTED INSTRUCTIONAL MATERIAL ARE KEPT INTACT TO THE EXTENT FEASIBLE AND AS  
5 MUTUALLY AGREED ON BY THE PUBLISHER AND THE LOCAL EDUCATIONAL AGENCY. IF A  
6 NATIONAL FILE FORMAT IS ADOPTED BY THE UNITED STATES DEPARTMENT OF EDUCATION,  
7 THE NATIONAL FILE FORMAT'S TECHNICAL SPECIFICATIONS FOR STRUCTURAL INTEGRITY  
8 ARE REQUIRED IN THE ACCESSIBLE ELECTRONIC FILE.

9 9. "VENDOR" MEANS A PERSON OR ENTITY THAT OFFERS PRINTED OR NONPRINTED  
10 INSTRUCTIONAL MATERIALS FOR COMMERCIAL SALE TO A SCHOOL DISTRICT AND OTHER  
11 PUBLIC SCHOOLS.

12 15-732. Powers and duties; state board of education; governing  
13 boards

14 A. THE STATE BOARD OF EDUCATION SHALL ADOPT RULES ON OR BEFORE AUGUST  
15 1, 2005 THAT REQUIRE ALL SCHOOL DISTRICTS AND OTHER PUBLIC SCHOOLS TO  
16 PURCHASE ADOPTED PRINTED AND NONPRINTED INSTRUCTIONAL MATERIALS FOR WHICH  
17 ACCESSIBLE ELECTRONIC FILES ARE AVAILABLE OR, IN THE CASE OF NONPRINTED  
18 INSTRUCTIONAL MATERIALS DELIVERED ONLINE, THAT COMPLY WITH SUBSECTION B OF  
19 THIS SECTION. THE RULES SHALL ESTABLISH PROCEDURES AND TIMELINES TO ENSURE  
20 THAT ACCESSIBLE MATERIALS ARE DISTRIBUTED TO A CHILD WITH A DISABILITY AT THE  
21 SAME TIME THAT PRINTED AND NONPRINTED INSTRUCTIONAL MATERIALS ARE DISTRIBUTED  
22 TO OTHER STUDENTS. THE RULES SHALL REQUIRE THE VENDOR TO SUBMIT THE  
23 ACCESSIBLE ELECTRONIC FILES TO ONE OR MORE AUTHORIZED ENTITIES, FOR  
24 CONVERSION BY SUCH AUTHORIZED ENTITIES INTO ACCESSIBLE FORMATS FOR USE BY A  
25 CHILD WITH A DISABILITY. THE RULES SHALL PROHIBIT UNAUTHORIZED COPYING,  
26 MODIFICATION AND DISTRIBUTION OF THE ACCESSIBLE ELECTRONIC FILES, INCLUDING  
27 DISTRIBUTION OF UNENCRYPTED OR REPRODUCIBLE ACCESSIBLE ELECTRONIC FILES TO  
28 OTHER THAN AUTHORIZED ENTITIES. THIS SECTION APPLIES ONLY TO NEWLY ADOPTED  
29 PRINTED AND NONPRINTED INSTRUCTIONAL MATERIALS ADOPTED AFTER THE 2005-2006  
30 SCHOOL YEAR AND WITH AN ORIGINAL COPYRIGHT DATE OF 2004 OR LATER.

31 B. ONLINE NONPRINTED INSTRUCTIONAL MATERIALS SHALL BE DEEMED COMPLIANT  
32 FOR PURPOSES OF SUBSECTION A OF THIS SECTION IF THEY MEET OR EXCEED STANDARDS  
33 FOR INTERNET ACCESSIBILITY, AS SET FORTH IN SECTION 508 OF THE REHABILITATION  
34 ACT OF 1973, AS AMENDED BY 29 UNITED STATES CODE SECTION 794D, AND  
35 REGULATIONS IMPLEMENTING THAT ACT AS SET FORTH IN PART 1194 OF TITLE 36 OF  
36 THE CODE OF FEDERAL REGULATIONS.

37 C. PRINTED AND ONLINE NONPRINTED INSTRUCTIONAL MATERIALS ARE EXEMPT  
38 FROM THIS ARTICLE IF PROVIDING AN ACCESSIBLE ELECTRONIC FILE WOULD DO ANY OF  
39 THE FOLLOWING:

- 40 1. FUNDAMENTALLY ALTER THE NATURE OF THE INSTRUCTIONAL ACTIVITY.
- 41 2. RESULT IN UNDUE FINANCIAL AND ADMINISTRATIVE BURDENS ON ANY STATE  
42 AGENCY, SCHOOL DISTRICT OR SCHOOL.
- 43 3. CAUSE SUCH RESOURCES NOT TO MEET STATE CONTENT STANDARDS, ADOPTION  
44 CRITERIA OR OTHER APPLICABLE SPECIFICATIONS.

1 D. THE GOVERNING BOARD OF EACH SCHOOL DISTRICT OR THE GOVERNING BODY  
2 OF ANOTHER PUBLIC SCHOOL THAT SOLICITS BIDS PURSUANT TO THIS SECTION SHALL  
3 PROVIDE WRITTEN NOTIFICATION OF THE REQUIREMENTS OF THIS ARTICLE AND RELATED  
4 AND SUBSEQUENT RULES TO VENDORS BEFORE SOLICITING BIDS FOR PRINTED AND  
5 NONPRINTED INSTRUCTIONAL MATERIALS.

6 E. THIS SECTION DOES NOT PERMIT REPRODUCTION, MODIFICATION OR  
7 DISTRIBUTION OF ACCESSIBLE ELECTRONIC FILES OR OF PRINTED OR NONPRINTED  
8 INSTRUCTIONAL MATERIALS WITHOUT THE PERMISSION OF THE COPYRIGHT HOLDER, AND  
9 DOES NOT REQUIRE VENDORS OR COPYRIGHT HOLDERS TO PROVIDE COPIES OR AUTHORIZE  
10 USES OF THE ELECTRONIC FILES OR INSTRUCTIONAL MATERIALS WITHOUT COMPENSATION,  
11 EXCEPT AS PROVIDED BY 17 UNITED STATES CODE SECTION 121. SCHOOL DISTRICTS  
12 AND OTHER PUBLIC SCHOOLS SHALL CERTIFY THAT NO REPRODUCTION OR MODIFICATION  
13 SHALL OCCUR WITHOUT THE EXPRESS AUTHORIZATION OF THE COPYRIGHT HOLDER WHILE  
14 MATERIALS ARE IN THE CUSTODY OF THE SCHOOL DISTRICT OR OTHER PUBLIC SCHOOL.

15 F. NOTHING IN THIS SECTION REDUCES THE OBLIGATION OF THE STATE BOARD  
16 OF EDUCATION AND THE GOVERNING BOARD OF A SCHOOL DISTRICT OR THE GOVERNING  
17 BODY OF ANOTHER PUBLIC SCHOOL TO PROVIDE FOR THE INSTRUCTION OF VISUALLY  
18 IMPAIRED PUPILS IN THE USE OF BRAILLE OR TO PROVIDE BRAILLE TEXTBOOKS AS  
19 PRESCRIBED IN SECTION 15-214.

20 G. IF A NATIONAL FILE FORMAT IS ADOPTED BY THE UNITED STATES  
21 DEPARTMENT OF EDUCATION, NOTHING IN THIS SECTION REQUIRES PUBLISHERS TO  
22 PRODUCE ACCESSIBLE ELECTRONIC FILES THAT ARE INCONSISTENT WITH OR MORE  
23 STRINGENT THAN THE SPECIFICATIONS OF THE NATIONALLY ADOPTED FILE FORMAT.

24 H. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO APPLY TO A PRIVATE  
25 SCHOOL.

APPROVED BY THE GOVERNOR MAY 6, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2004.